

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**APRIL GRIFFIN, et al.,
Plaintiffs,**

v.

Case No. 08C0822

**STATE OF WISCONSIN, et al.,
Defendants.**

DECISION AND ORDER

Plaintiffs, proceeding pro se individually and on behalf of their minor children, brought this civil rights suit alleging that defendants conspired to deprive them of their civil rights. I previously screened plaintiffs' seventy page amended complaint and dismissed it for being too confusing. I allowed plaintiffs to file an amended complaint so that they could cure the defects. Instead of filing an amended complaint, plaintiffs filed motions for disqualification and recusal under 28 U.S.C. §§ 144 and 455(a) and for relief from the July 24, 2009 order under Fed. R. Civ. P. 60.

I deny both motions. To determine whether a judge must disqualify himself under 28 U.S.C. § 455(b)(1) or 28 U.S.C. § 144, the question is whether a reasonable person would be convinced the judge was biased. Hook v. McDade, 89 F.3d 350, 355 (7th Cir.1996). Plaintiffs identify only one basis for recusal: a remark in the previous order denying their motions to strike and for sanctions. Judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. Liteky v. United States, 510 U.S. 540, 555 (1994) ("judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or

partiality challenge"). No reasonable person could be convinced of bias, and thus the motion must be denied.

I also deny the motion for relief from the July 24, 2009 order. Rule 60(b) relief is inapplicable because there is no final order in this case. Although I dismissed the complaint, I granted leave for plaintiffs to file another complaint that complied with Fed. R. Civ. P. 8. Furthermore, plaintiff has not identified grounds to vacate or modify the previous ruling.

For the foregoing reasons,

IT IS ORDERED that the motion to disqualify is **DENIED**.

IT IS ORDERED that the motion for relief from order is **DENIED**.

IT IS FURTHER ORDERED that plaintiffs shall file an amended complaint on or before **October 9, 2009** in accordance with this decision; failure to file an amended complaint by that time will result in dismissal of this action. **THERE WILL BE NO FURTHER EXTENSIONS.**

Dated at Milwaukee, Wisconsin this 21 day of September, 2009.

/s _____
LYNN ADELMAN
District Judge